IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

R.S.A.No. 1116 of 2007 (O&M)

DATE OF DECISION: APRIL 16, 2007

U.H.B.V.N.L. and others

...APPELLANTS

VERSUS

M/s. Haryana Dairy Milk

...RESPONDENT

CORAM: HON'BLE MR.JUSTICE SATISH KUMAR MITTAL

Present: Mr. Narender Hooda, Advocate,
for the appellants.

...

This is defendants' Regular Second Appeal, which is barred by limitation, against the judgment and decree passed by both the courts below, whereby the suit of the plaintiff has been partly decreed.

When a notice of demand for effecting recovery for an amount of Rs. 9,17,078/- was issued to the plaintiff-firm, it filed the instant suit for declaration as well as permanent injunction restraining the appellants from effecting said recovery from it. The said recovery was effected on account of the penalty imposed for excess load, i.e., Rs.40,298/- and for theft of electricity for a sum of Rs.8,76,780/-. The Courts below on the basis of evidence upheld the recovery of Rs. 40,298/- on account of excess load, however, restrained the appellants from effecting recovery of the other amount as it was found as a fact that the defendants have failed to prove that any theft had taken place or there was any checking report showing any theft of electricity. It has been found as a fact that the meter, which was installed on the premises of the consumer, wherein it was alleged that the theft had

taken place, was burnt by the mistake on the part of the official of the Department. In view of this fact, it has been held that no theft, as alleged was committed by the plaintiff-firm. This finding has been recorded after appreciating the evidence led by both the parties. Both the Courts below have come to the conclusion that when the factum of alleged theft of the electricity has not been proved by the defendants, therefore, they are not entitled to effect recovery in that regard. On the basis of the said finding of fact, the suit of the plaintiff has been partly decreed. No illegality or perversity has been pointed out in the said finding of fact by the counsel for the appellants.

No substantial question of law has been raised or is involved in this appeal.

Dismissed.

April 16, 2007 (SATISH KUMAR MITTAL)
vkg JUDGE